



Agenda Date: 12/20/00
Agenda Item: 7B

STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

CABLE TELEVISION

IN THE MATTER OF THE APPLICATION OF)
CLEAR CABLEVISION, INC., MANCHESTER)
CABLEVISION, INC. AND COMCAST)
CABLEVISION CORPORATION OF CALIFORNIA)
FOR APPROVAL OF THE TRANSFER OF)
ASSETS AND THE TRANSFER OF)
CERTIFICATES OF APPROVAL)
)

ORDER OF APPROVAL

DOCKET NO: CM00030167

IN THE MATTER OF THE ALLEGED)
FAILURE OF ADELPHIA CABLE COMMUN-)
ICATIONS TO CONFORM TO CERTAIN PRO-)
VISIONS OF THE NEW JERSEY CABLE ACT)
N.J.S.A. 48:5A-1 ET SEQ. AND THE NEW)
JERSEY ADMINISTRATIVE CODE N.J.A.C.)
14:18-1.1 ET SEQ.)

ORDER ACCEPTING OFFER OF SETTLEMENT

DOCKET NO. CO00120930

(SERVICE LIST ATTACHED)

BY THE BOARD:

TRANSFER TRANSACTION

On March 16, 2000, Clear Cablevision, Inc. ("Clear") and Manchester Cablevision, Inc. ("Manchester"), each a Delaware corporation, and Comcast Cablevision Corporation of California ("Comcast-California"), a California corporation (jointly the "Petitioners"), petitioned the Board, pursuant to the provisions of N.J.S.A. 48:5A-40 and 19, and N.J.A.C. 14:17-6.10 and 6.8, for approval of a pending transaction ("Transaction") resulting in the acquisition of Clear's and Manchester's cable television systems by Comcast-California.

Clear and Manchester (together, "Adelphia") own and operate a cable television systems (the "Adelphia Systems") serving several municipalities in Ocean County, New Jersey.¹

¹ Clear Cablevision, Inc. is authorized to serve the following municipalities: Barnegat Township; Beachwood Borough; Berkeley Township; Dover Township; Eagleswood Township; Island Heights Borough; Lacey Township; Lakehurst Borough; Little Egg Harbor Township; Manchester Township; Ocean Gate Borough; Ocean Township; Pine Beach Borough; Stafford Township; South Toms River Borough; and Tuckerton Borough. Additionally, Clear Cablevision, Inc. provides service to Pinehurst Estates (an off-base housing unit of Naval Air Engineering Station, Lakehurst) pursuant to contract with the United States Government. Manchester Cablevision, Inc. is authorized to provide service to Crestwood Village in the Township of Manchester.

Clear and Adelphia are indirect wholly-owned subsidiaries of Adelphia Communications Corporation ("ACC"), a Delaware corporation, headquartered in Coudersport, Pennsylvania. ACC is a cable television multi-system operator, or "MSO", which, by itself or through partnerships, serves approximately 5.5 million subscribers in 30 states.²

On April 20, 2000, Petitioners modified their Petition to substitute Comcast Cablevision of New Jersey LLC ("Comcast-LLC"), a limited liability company formed under the laws of the State of Delaware, as the transferee of the Adelphia Systems, in place of Comcast-California. Comcast-California is wholly owned by Comcast Cable Communications, Inc. ("Comcast-Cable"), a Delaware corporation, and which is a wholly owned subsidiary of Comcast Corporation ("Comcast"). Comcast, headquartered at 1500 Market Street, Philadelphia, PA 19102-2148, is the third largest MSO in the United States, serving, through its various subsidiaries, approximately 7.5 million subscribers in 22 states.³ Nearly half of Comcast's cable subscribers are concentrated in the States of New Jersey, Pennsylvania, Delaware, Maryland and Virginia. Comcast-Cable owns the stock of certain other subsidiaries⁴ which, pursuant to N.J.S.A. 48:5A-1 et seq., own and operate cable television systems in New Jersey.

Petitioners advised the Board that, as a result of geographic and other considerations, ACC and Comcast each have determined that certain systems to be acquired from the other would more rationally fit within their respective existing regional clusters of cable television systems. Accordingly, ACC and Comcast entered into a letter agreement dated May 25, 1999 ("Letter Agreement"), pursuant to which the parties will exchange (or cause their various subsidiaries to exchange) certain cable television systems. In connection with the proposed Transaction, Petitioners filed with the Board a FCC Form 394, setting forth pertinent information concerning the Transaction. Attached to the Form 394 is a copy of the Letter Agreement. Schedule A to the Letter Agreement specifies those cable television systems presently owned by Comcast that are to be transferred to ACC. Schedule B to the Letter Agreement specifies those cable television systems presently owned by ACC, including the Adelphia System, that are to be transferred to Comcast. Under the Letter Agreement, in the event that the adjusted aggregate agreed-upon values ("AAAV's") (as defined in the Letter Agreement) of the systems to be exchanged are not equal, a payment, in cash or in other cable television systems, equal to the difference, shall be made by the party transferring the systems with the lower valuation. The AAAV's will be determined by independent appraisals. Since the Board will be approving this transaction before it closes, it will be doing so without knowledge of the independent appraisals, which are not likely to be performed until after Board approval, or too close to the closing date to be in time for Board approval. Instead, Comcast has submitted a good faith estimate. ACC and Comcast, through subsidiaries, each own and operate existing cable systems in the region of the cable systems to be acquired by each. Petitioners further advised that the proposed

² References herein to ACC, where indicated by the context, shall be understood to mean ACC and/or its cable television subsidiaries.

³ References herein to Comcast Corporation, where indicated by the context, shall be understood to mean Comcast Corporation and/or its cable television subsidiaries.

⁴ Said subsidiaries are Comcast Cablevision of Northwest New Jersey, Inc.; Comcast Cablevision of New Jersey, Inc.; Comcast Cablevision of the Plainfields, Inc.; Comcast Cablevision of Monmouth County, Inc.; Comcast Cablevision of Central New Jersey, Inc.; Comcast Cablevision of Ocean County, Inc.; Comcast Cablevision of Burlington County, Inc.; Comcast Cablevision of Gloucester County, Inc.; Comcast Cablevision of Jersey City, Inc.; Comcast Cablevision of the Meadowlands, Inc.; Comcast Cablevision of Mercer County, Inc.; Comcast Cablevision of Southeast Pennsylvania Inc. (corporation name changed from Suburban Cable TV Co., Inc.) and Comcast Cablevision of South Jersey, Inc. (corporation name changed from Lenfest Atlantic, Inc.). In addition, Comcast Corporation, indirectly, owns all of the partnership interests of Comcast Cablevision of Garden State Cable, L.P.

exchange of cable systems will enable both ACC and Comcast to better and more efficiently operate their respective cable systems. Thus, Petitioners assert that the proposed transfers will result in a more economic management of resources by each party.

Petitioners also assert that the proposed transaction will result in benefits to the subscribers of both Comcast and ACC, stemming from improved efficiencies and economies of operation. As noted above, various Comcast subsidiaries now provide cable television services to New Jersey subscribers through their respective cable systems. As the Adelphia properties in New Jersey are nearby and contiguous to existing Comcast systems in New Jersey, Comcast believes that their combination will aid in the development of greater regional efficiencies, which, in turn, will foster growth and enhancements for their subscribers. Thus, Petitioners contend that the policies underlying the legislative preference for regional systems, as expressed in N.J.S.A. 48:5A-17(b), will be advanced by and through the proposed transaction.

Following submission of the petition, the Petitioners provided written responses to written requests for additional information regarding the impact of the Transaction on Adelphia's New Jersey cable television customers. In addition, Comcast provided information as to its ability to continue to provide safe, adequate and proper service subsequent to the Transaction.

Staff has reviewed this Transaction and the documents submitted by the Petitioners, and recommends that the Board approve the Transfer of Assets including Certificates of Approval from Adelphia to Comcast-LLC.

COMPLIANCE MATTERS

The Board's Office of Cable Television Inspection and Enforcement Bureau ("Office"), after conducting a routine compliance review, has alleged that Adelphia was not conforming to certain provisions of the New Jersey State Cable Act N.J.S.A. 48:5A- et seq. and the New Jersey Administrative Code N.J.A.C. 14:18-1.1 et seq.; more specifically, N.J.A.C. 14:18-3.7(a) 5 Bills for Service; Form of Bill, N.J.A.C. 14:18-3.9(a), Due Date for Payment and Notice of Discontinuance, N.J.A.C. 14:18-3.16(a)1, N.J.A.C. 14:18-3.18(a)1, 4, 5, 6 and (b)1, 2, Notice of Rate Change and Customer Rights Notifications, and N.J.S.A. 48:5A-11(a), N.J.S.A. 48:5A-36(b), N.J.A.C. 14:18-3.3(d), N.J.A.C. 14:18-3.4, and N.J.A.C. 14:18-3.16(a)1 governing the filing and maintenance of complete tariffs showing all rates, terms, conditions of service and service packages and the disclosure of same to customers. The aforementioned requires all cable systems in New Jersey to conform to these provisions with the intent to provide protection to the cable consumer.

As a result of correspondence and telephone conversations between Adelphia and the Office, Adelphia submitted an Offer of Settlement concerning the following alleged non-conforming practices:

- A. The Office alleges that Adelphia, in its Clear and Manchester cable systems, failed to provide the date by which payment is due on monthly billing statements, as required by N.J.A.C. 14:18-3.7(a)5.
- B. The Office alleges that Adelphia, in its Clear and Manchester cable systems, failed to provide a specific due date on subscriber bills that affords them at least fifteen (15) days to pay, as required by N.J.A.C. 14:18-3.9(a).
- C. The Office alleges that Adelphia, in its Clear and Manchester cable systems, failed to disclose all monthly service packages and corresponding rates available, by customer classification in its 1998 and 1999 annual notifications, as required by N.J.A.C. 14:18-3.18(a)1.
- D. The Office alleges that Adelphia, in its Clear and Manchester cable systems, failed to provide its customers in 1998 and 1999 quarterly notification of the availability of outage credits outlined in N.J.A.C. 14:18-3.5, as required by N.J.A.C. 14:18-3.18(b)1.
- E. The Office alleges that Adelphia, in its Clear and Manchester cable systems, failed to provide its customers in 1998 and 1999 quarterly notification of the complaint officer, as required by N.J.S.A. 48:5A-26(c) and N.J.A.C. 14:18-3.18(b)2.
- F. The Office alleges that Adelphia, in its Clear and Manchester cable systems, failed to file and maintain complete tariffs showing all rates, terms, conditions of service and service packages and disclose same to its customers, as required by N.J.S.A. 48:5A-11(a), N.J.S.A. 48:5A-36(b), N.J.A.C. 14:18-3.3(d), N.J.A.C. 14:18-3.4, and N.J.A.C. 14:18-3.16(a)1.
- G. The Office alleges that Adelphia, in its Clear cable system, failed to file a revised tariff with the Office indicating a change in its rates for customers in its Cedar Bonnet Island area at least 30 days prior to the effective date of August 1, 1999, as required by N.J.A.C. 14:18-3.16(a)1.
- H. The Office alleges that Adelphia, in its Clear cable system, failed to provide its customers in its Cedar Bonnet Island Area the 1998 and 1999 annual notification of the availability of its senior citizens/disabled discount, as required by N.J.A.C. 14:18-3.18(a)4.
- I. The Office alleges that Adelphia, in its Clear cable system, failed to provide its customers in its Cedar Bonnet Island Area the 1998 and 1999 annual notification of the availability of devices for the hearing impaired, as required by N.J.A.C. 14:18-3.18(a)5.
- J. The Office alleges that Adelphia, in its Clear cable system, failed to provide its customers in its Cedar Bonnet Island Area the 1998 and 1999 annual notification of the availability of parental lock devices as provided under N.J.A.C. 14:18-3.14(a)1 and 47 U.S.C. § 544(d)(2), and required by N.J.A.C. 14:18-3.18(a)6.

Adelphia submitted its monetary Offer of Settlement in the amount \$18,000.00 in order to resolve all issues concerning the violations alleged by the Office. The Offer represents a reasonable settlement in view of the alleged violations and the operator's past compliance history. In addition to the monetary settlement, Adelphia has undertaken or agreed to complete the following remedial actions:

1. Adelphia has changed subscribers' monthly billing statements to reflect a specific due date for payment, which provides the subscribers a minimum of fifteen days for payment, pursuant to N.J.A.C. 14:18-3.7(a)5 and N.J.A.C. 14:18-3.9(a).
2. Adelphia has taken corrective action to ensure that subscribers receive the required and proper Customer Rights notifications, pursuant to N.J.A.C. 14:18-3.18(a)1, 4, 5, 6 and (b)1, 2.
3. Adelphia has agreed to modify its filed tariffs and rate cards to include all of the appropriate rates and comport them to one another in accordance with N.J.S.A. 48:5A-11(a), N.J.S.A. 48:5A-36(b), N.J.A.C. 14:18-3.3(d), N.J.A.C. 14:18-3.4, and by N.J.A.C. 14:18-3.16(a)1.
4. Adelphia has agreed to re-issue notices to subscribers disclosing the rates for all services.
5. Adelphia has agreed to produce proof of notice for all reissued notices within 60 days of the date of the Board's Order accepting the Offer.

The Office recommends acceptance of this Offer of Settlement based upon the aforementioned commitments and compliance with the New Jersey Cable Act, N.J.S.A. 48:5A-1 et. seq. and the New Jersey Administrative Code, N.J.A.C. 14:18-1.1 et. seq. The Office will monitor the company's future billing practices and procedures as set forth in the New Jersey Administrative Code.

The Board has reviewed the matter and recommendations of the Office concerning the proposed offer of settlement, and HEREBY FINDS them to be reasonable. Therefore, the Board HEREBY ACCEPTS the Offer of Settlement proffered by Adelphia subject to the following provisions, conditions and/or limitations:

1. Adelphia must tender the \$18,000.00 monetary payment to the State of New Jersey within fifteen (15) days of the date of this Order.
2. The Board's acceptance of the Offer of Settlement is for the purposes of this proceeding only and shall not be construed as limiting the Board's authority in any other matter affecting Adelphia or any successor company.

3. For the purposes of assessing penalties for future offenses by Adelphia, or any successor company operating its Clear or Manchester cable systems, such future offenses shall be considered subsequent offenses, in accordance with N.J.S.A. 48:5A-51(b).
4. Adelphia shall provide to the Office, within 60 days of the date of this Order, proof of notice for all reissued notices in the form of a certified affidavit by officer of the company, together with copies of all such notices.

After a review of this matter concerning the transfer transaction, the Board HEREBY FINDS the Transaction to be made is in accordance with law, is in the public interest and approving the purposes thereof, HEREBY AUTHORIZES the Transaction, including the transfer to Comcast-LLC of the Certificates of Approval to construct, own, operate and maintain the Adelphia System. The Board also HEREBY AUTHORIZES the sale to Comcast-LLC of the assets of the Adelphia System.

This Order is subject to the following requirements:

- 1) This Order shall not affect or in any way limit the exercise of the authority of the Board or the Office of Cable Television or the State of New Jersey in any future petition or in any proceeding regarding rates, cost of service, franchises, service, financing, accounting, capitalization, depreciation or any other matters affecting the Petitioners.
- 2) This Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of tangible or intangible assets now owned or hereinafter to be owned by Petitioners.
- 3) This Order shall not be construed as affecting pending rate proceedings involving the Petitioners.
- 4) The Petitioners shall notify the Board, in writing, within five (5) days of the date on which each of the transactions are consummated.
- 5) Consummation of the above referenced transactions shall take place no later than ninety (90) days from the date of this Order, unless otherwise extended by the Board.
- 6) Petitioners shall file a Certification with the Board within thirty (30) days of the closings attesting to the lack of material deviation in the executed closing documents or final terms from those terms and conditions described herein and/or submitted to the Board with the Petition. Any such material deviation in the executed closing documents shall render this Order voidable by the Board.
- 7) Petitioners shall file with the Board the AAAV's of the systems exchanged within forty-five (45) days of final closing.
- 8) Petitioners shall file journal entries with the Board to record the transactions approved herein with forty-five (45) days of final closing.

- 9) In addition to the State assessment, pursuant to N.J.S.A. 48:5A-32, and municipal franchise fees, pursuant to N.J.S.A. 48:5A-30, due and owing by Comcast on systems it presently owns and operates in New Jersey, Comcast shall be liable for all State assessment and municipal franchise fees due and owing for the preceding calendar year relating to those subsequently acquired New Jersey systems it owns as of the statutory payment dates.
- 10) Adelphia shall provide, within 60 days of the date of this Order, revised Office of Cable Television Forms CATV-1 and CATV-2, which shall reflect gross revenue, as defined by the applicable statutes, for the period January 1, 2000 through December 31, 2000, for the franchises transferred.
- 11) Adelphia shall provide, within 45 days of the date of closing, revised Office of Cable Television Forms CATV-1 and CATV-2, which shall reflect gross revenue, as defined by the applicable statutes, for the period January 1, 2001 through closing, for the franchises transferred.
- 12) All franchise obligations, commitments and agreements shall continue in force in all respects under Comcast ownership.
- 13) Comcast shall file within 45 days of the closing of the Transaction a revised tariff for cable television service reflecting the new ownership and listing all charges as required by the Board, the Office of Cable Television or the Federal Communications Commission.
- 14) All of the obligations imposed upon Adelphia by the Certificates of Approval issued by the Board for the municipalities served by it shall be assumed by Comcast-LLC.
- 15) All representations and commitments made by Adelphia to the municipalities serviced by the Adelphia System are fully enforceable as if set forth at length herein.
- 16) Approval of the transfer of assets and Certificates of Approval approved herein shall not constitute automatic approval of any business contract referenced in the Agreement or supporting documents, if Board approval, pursuant to N.J.S.A. 48:5A-1 et seq., would otherwise be required.

All parties to the Transaction must comply with the New Jersey Cable Television Act and applicable sections of the New Jersey Administrative Code.

DATED: December 21, 2000

BOARD OF PUBLIC UTILITIES
BY:

(signed)

HERBERT H. TATE
PRESIDENT

(signed)

CARMEN J. ARMENTI
COMMISSIONER

(signed)

FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)

FRANCES L. SMITH
SECRETARY

IN THE MATTER OF
CLEAR CABLEVISION, INC. AND MANCHESTER CABLEVISION, INC. AND COMCAST
CABLEVISION OF CALIFORNIA, LLC - TRANSFER OF ASSETS
DOCKET NO. CM00030167

ADELPHIA CABLE COMMUNICATIONS - OFFER OF SETTLEMENT
DOCKET NO. CO00120930

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